

SPECIAL TOWN MEETING OCTOBER 19 & 20, 2009

Pursuant to the Selectmen's warrant of September 15, 2009, posted by the Constable on September 29, 2009, the Special Town Meeting was called to order at 7:03 p.m. on October 19th in Hugh Mill Auditorium at Hale School by Deputy Moderator Gary Horowitz, substituting for the late moderator Edward Newman who passed away in July 2009 after a long illness. Mr. Horowitz recalled some of Mr. Newman's accomplishments in his fourteen-year tenure as moderator.

The meeting rose for an invocation recited by Mr. Horowitz, who then led the assemblage in the *Pledge of Allegiance to the Flag*.

Mr. Horowitz recognized the volunteers who set up and operate the microphone and cable television recording systems for town meetings. He explained the voter card system. As an experiment and a possible alternative to the card, each voter was affixed with a neon plastic bracelet as a means of identification for teller vote counting. Result to be determined later.

Town officials present were introduced: Selectmen, Town Administrator, Selectmen's and Administrator's Administrative Assistant, Town Counsel, Town Clerk, Assistant Town Clerk, Finance Committee members and others. A list of non-voters who may be heard during the course of the meeting was approved unanimously.

On motion of Selectman Stephen Dungan, it was voted unanimously to elect Patricia Walrath as a Temporary Moderator for this meeting. Assistant Moderator Elizabeth Painter's tenure continues for the ensuing year. Ms. Painter presided in the gymnasium overflow area, while Ms. Walrath presided in the cafeteria overflow area.

Moderator Horowitz announced his decision that the vote on Article 1 concerning elementary school building construction will be taken by paper ballot. He noted there has been conversation of late about the use of paper ballot voting at town meeting for certain warrant articles. Rather than spend time debating the matter, he made the decision as the "right thing to do".

On motion of Selectman Stephen Dungan, it was voted unanimously that the reading of the warrant and return of the constable thereon be waived but made a part of the record of this meeting, and that the Moderator be permitted to refer to each article by subject matter instead of reading each article in its entirety.

ARTICLE 1. Elementary School Building Construction

Selectman Ellen Sturgis moved that the Town vote to appropriate the sum of \$35,629,870.00, in addition to the \$2,200,000.00 previously appropriated by the vote of the Town passed under Article 35 of the warrant for the May 4, 2009 Annual Town Meeting which amended the vote of the Town passed under Article 36 of the warrant for the May 7, 2007 Annual Town Meeting and which appropriation can be used for the project described in this vote, for the Pompositticut/Center School elementary school addition and renovation, located on Great Road in Stow, MA, which school facility shall have an anticipated useful life as an educational facility for the instruction of school children for at least 50 years, said sum to be expended under the direction of the School Building Committee, and to meet said appropriation the Board of Selectmen is authorized to borrow said sum under M.G.L. Chapter 44, or any other enabling

authority; that the Town of Stow acknowledges that the Massachusetts School Building Authority's ("MSBA") grant program is a non-entitlement discretionary program based on need, as determined by the MSBA, and any project costs the Town of Stow incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town of Stow; provided further that any grant that Nashoba Regional School District may receive from the MSBA for the Project shall not exceed the lesser of (1) fifty and eighty-five hundredths percent (50.85%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount of \$18,132,259.00 as determined by the MSBA. The Town acknowledges that the maximum amount of funding that the Nashoba Regional School District may receive from the MSBA may be an amount less than \$18,132,259.00 as determined by an audit conducted by the MSBA; provided that any appropriation hereunder shall be subject to and contingent upon an affirmative vote of the Town to exempt the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. Chapter 59, Section 21 C (Proposition 2½); and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the Nashoba Regional School District and the MSBA.

The Selectmen were unanimously in support of the article, as was the Capital Planning Committee.

The Finance Committee recommended approval of this article, contingent on the MSBA's approval of financing. The process for developing the proposal has been transparent, deliberate, has followed state guidelines, and has resulted in a sensible design. Because the ESBCs cooperated with the School Building Authority, the Commonwealth is offering considerable financial assistance that will not be available later to this extent, if at all. Unfortunately, even with that assistance, the amount to be financed by the Town will have a significant impact on our borrowing and on the property tax burden (an increase of over \$500 per year on the average assessment of \$463,000, bonded for 22 years at prevailing interest rates). On the whole, however, this proposal fills a present need in a realistic way, takes maximum advantage of available assistance, at a cost that will only get higher in the future.

Ms. Sturgis began the presentation by recognizing those individuals who worked on or assisted the Elementary School Building Committee. A concept plan of the proposed additions to the existing Center School was displayed. It is proposed to transfer some of the land behind the Fire Station to allow construction toward Hartley Road. Part of the addition will accommodate a future second floor. Ms. Sturgis said that the project is on an aggressive timetable. Groundbreaking is planned for June 2010 with completion by fall 2012. Construction will be phased to keep disruption at a minimum. Fund-raising is being planned to help reduce the costs and earn incentive points toward possible MSBA reimbursement increase. It is felt this is a reasonable project for the school and the Town.

Discussion followed. One voter questioned interest rates for the borrowing and what they may be in three years. There was the suggestion that the rate be "locked in" soon. A voter lamented the destruction of the Stone Building that had been originally used for apple storage. Ms. Sturgis noted that the structure is not in good shape and would be difficult to move. A voter questioned the availability of MSBA funding over the course of construction. The MSBA representative stated that the agency is an independent authority and not subject to annual appropriation. It is "good" for the \$18,000,000 that is available now. The offer is open for 120 days from the September 30th vote of the MSBA.

At 8:41 p.m. there was a call for the question. It was voted by more than a two-thirds majority to cease discussion. Moderator Horowitz explained the paper ballot procedure, and the tellers began by distributing the ballots and then collecting them in boxes for counting. After about thirty minutes, the result of the voting was announced.

There were 755 ballots. Two-thirds vote of 504 was required for passage. Yes 684, No 71. The **motion was declared carried** by more than the two-thirds required.

Note: The vote on ballot question 1 at the October 29, 2009 special town election was in the affirmative with 1,069 Yes and 374 No to exempt the borrowing from the provisions of Proposition 2-1/2.

ARTICLE 2. Elementary School Building Land Parcel Transfer

On motion of Selectman Kathleen Farrell, it was voted in excess of two-thirds majority, pursuant to Mass. General Laws Chapter 40, Section 15A, to authorize the transfer of a portion of the real property currently under the care, custody and control of the Board of Selectmen for the use as a municipal Fire Station located at 16 Crescent Street, Stow, Massachusetts, Assessors' Parcel ID U-10-0090, to the care, custody and control of the Board of Selectmen for use in conjunction with the expansion, use and future needs of the Center Elementary School, such expansion, use and future needs to be determined by the Board of Selectmen, said real property consisting of 2.16 acres, more or less, and more fully described on the plan of land prepared by Symmes, Maini & McKee Associates, scale 1"=40', and dated September 2, 2009.

It was stated that the Fire Department did not feel it had need for this land. The Finance Committee recommended the transfer of land to facilitate the school project and that there would be no detrimental effect on Fire Department operations.

ARTICLE 3. Public Water Supply for Town Center Municipal Use

Selectman Thomas Ruggiero moved that the Town vote to authorize the Board of Selectmen, pursuant to Mass. General Laws Chapter 40, Section 4, to enter into and/or renew, one or multiple contract(s), as the Board of Selectmen deems appropriate, with the Assabet Water Company, Inc. of Grafton, Massachusetts, with regard to and for the benefit of, the supply of water within the streets and ways and to private and public consumers, within the Town of Stow.

Town Administrator William Wrigley reported on the attempt to bring a water supply to the Lower Village and businesses that cannot comply with DEP regulations in that regard. If a waterline was to run from the Assabet Water site off Adams Drive to Lower Village, it would not take much more to run one to the center of town to serve the new Center School. It would also provide water to Plantation Apartments and to Pilot Grove Apartments. An affirmative vote on this article will enable the Town to negotiate with Assabet toward reasonable rates.

Discussion followed. Comments were made about the adequacy of the water supply that currently serves Harvard Acres customers. Mr. Wrigley advised that DEP had conducted pumping tests in that regard.

At 10:02 p.m. there was a call for the question. It was voted by more than a two-thirds majority to cease discussion. The vote on the main motion was declared by Moderator Horowitz to have carried in excess of a two-thirds majority. A request for recount was made by more than seven voters. Thereupon a hand count was taken. 358 votes were counted: Yes 255, No 103. The **motion was declared carried** by more than a two-thirds majority.

At 10:14 p.m. a motion was made to adjourn the meeting to Tuesday, October 20, 2009 at 7:00 p.m. in Hugh Mill Auditorium of Hale School. Motion carried.

**SPECIAL TOWN MEETING
OCTOBER 20, 2009
(Second Session)**

Moderator Gary Horowitz called the second session to order at 7:02 p.m. He summarized the results of voting at the October 19th first session.

Mr. Horowitz recognized Malcolm FitzPatrick who said he had planned to request reconsideration of Article 3 concerning a public water supply. He now proposes to circulate a petition seeking to place before a town meeting a proposed contract with Assabet Water Company. Town Administrator Wrigley advised there is a time factor involved. If Article 3 were to be defeated upon reconsideration, there is possible effect on the Center School project. He suggested, as an alternative, a Selectmen's meeting for discussion of a contract. A decision on a water supply contract must be made between now and December 31st when the MSBA offer will expire.

The reconsideration procedure was explained. In order for a town meeting article to be reconsidered, it is necessary that new information be brought forth, that is, something that was not known or discussed originally. Selectman Stephen Dungan asked that the voters trust the Selectmen to act in their best interests.

It was announced that Newell Dearborn, a former member of the Council on Aging, had passed away.

ARTICLE 4. Plantation Apartments Supportive Housing and Pilot Grove Expansion

Selectman Laura Spear moved that the Town vote to appropriate and transfer a sum of \$1,400,000, or any lesser amount, from Community Preservation Unrestricted Fund Reserves, and \$350,000, or any lesser amount, from Community Preservation Affordable Housing Reserves, to be expended under the direction of the Community Preservation Committee (CPC) consistent with the Community Preservation Act for the purpose of purchasing land and developing supportive housing units next to Plantation Apartments on a property shown as Parcel 10 on Map U-11 of the Assessors' Maps of the Town of Stow, and for the expansion of Pilot Grove Apartments on a portion of the land shown as Parcel 3 on Map R-17 of the Assessors' Maps of the Town of Stow. Funds shall be appropriated as printed in the warrant. "Source" refers to the specific Community Preservation Fund account to be transferred from, as printed in the warrant. "Available" is when the funds shall be transferred to the project account from the source account. "Associated costs" purpose shall mean funds for appraisal, legal, and other due diligence and associated administrative costs. "Implementation" purpose shall mean funds used to purchase or fund the purchase of land and affordability restrictions in perpetuity in accordance with this article. No Implementation Funds shall be expended until necessary permits required for building are issued and sufficient funding for proceeding with the development is acquired.

Further, to authorize the Board of Selectmen and/or Stow Municipal Affordable Housing Trust (SMAHT) to enter into such agreements, execute such documents and apply for and accept such public or private grants as may be available to the Town for these purposes; and further, to authorize the CPC as approved by Town Meeting within this Article or by subsequent actions to transfer funds when available to the SMAHT as specific grants for the purposes of this article.

Amount	Source	Purpose	Available
\$100,000	Unrestricted Reserves	Associated costs	Immediate
\$350,000	Affordable Housing Reserves	Implementation	Immediate
\$200,000	Unrestricted Reserves	Implementation	Immediate
\$550,000	Unrestricted Reserves	Implementation	January 1, 2011
\$550,000	Unrestricted Reserves	Implementation	January 1, 2012

The Selectmen had voted unanimously in support of this article.

Gregory Jones represented the Stow Community Housing Corporation, a non-profit formed by the Town in 1979 for the purpose of providing affordable housing in Stow. The first was Plantation Apartments for seniors with 50 units, and then Pilot Grove Apartments in 1992 with 60 units of family housing. Thirty-seven of the Pilot Grove units have affordable deed restrictions. It is proposed to construct 37 units of supportive housing on land adjacent to Plantation and 30 units of family housing on land adjacent to Pilot Grove.

Bruce Fletcher of SCHC displayed conceptual architectural designs. It is proposed to construct a three-story building adjacent to Plantation. It will comply with height restrictions. He pointed out that Zoning Board of Appeals approval is required under Chapter 40B.

Ellen Cataldo, also of SCHC, advised that of the 60 existing units at Pilot Grove, 37 have affordable deed restrictions. The rentals are a mix of market, moderate and low income. A market study pointed up the need for additional affordable housing, and 30 additional units seemed reasonable. Mr. Fletcher described the proposed site as 7.25 acres off West Acton Road as a site that is relatively flat. Access will be off the existing Warren Road, and there will be no new driveway off West Acton Road. The buildings will be constructed into the slopes.

As regards CPC funding, Mr. Jones said that all permits will be in hand before the funds will be released. There will be no effect on the real taxes. The \$1.75 million requested computes to \$25,000 per unit. State and Federal sources for \$18,000,000 will be sought. SCHC's purpose is to help people, especially the elderly.

Robert Wilber of the Community Preservation Committee reported there are currently funds on hand for this project, and additions are expected during the life of the project. He stated SCHC is a known entity with the success of Pilot Grove and Plantation, with Stow residents committed to housing. All of these are rental units that will count toward the 10% affordable goal. He felt the agreement with SCHC is structured to protect the funds.

Report of Community Preservation Committee:

On October 14, 2009 the Community Preservation Committee voted to recommend to Special Town Meeting Article #4 as printed in the warrant. The votes were 6 to approve to recommend to STM; 0 to not approve to recommend to STM; and 1 abstention.

Michael Kopczynski of the Stow Municipal Affordable Housing Trust said that in order for the Trust to initiate affordable housing it must follow state procurement laws. SCHC as a non-profit does not have those restrictions. This article will give the Town site control. There is

need for pre-development funding for engineering, plans, etc. Final figures at this point cannot be known.

Report of Finance Committee as presented by David Walrath:

The Finance Committee recommends approval of this article. This article uses the Town's Community Preservation funds to fund a bit less than 10% of these developments next to the existing developments. These dedicated CPA funds can only be used for certain purposes, including community housing and not things like schools, and use will not increase the tax rate.

The Article is worded so that the Town will be purchasing assets (land and deed restrictions) with our money, not giving grants. The article is also structured so that town funds will not change hands until the additional needed funds are raised and permits are acquired - it minimizes our risk.

These units will help with housing needs in the town, and will move the town much closer to the 10% affordable housing target in Chapter 40B of the state laws. I won't go into the details unless asked, but the proponents are conservative in the equivalent number of conventional 40B units this project equals - by my math, we would need to build 400 housing units at the more typical 25% affordability to get us as close to the 10% target under 40B - either way you measure it, this is equivalent to 3 or 4 more developments the size of Villages at Stow.

Jean Lynch of the Capital Planning Committee stated that the proposal will benefit current residents, the families of residents and future residents.

Discussion followed. There was a motion to divide the question. Town Counsel Jonathan Witten rules that because of the nature of this article, it is not possible to divide it. The article was drafted by CPC to cover the two developments and cannot be changed by town meeting. Moderator Horowitz ruled the motion out of order.

Attorney Dan Hill, representing the Reynolds family on DeVincent Drive, urged defeat as a proposal not well thought out. One comment was the Plantation building would be too close to the lot line. It was noted that the separate process (Chapter 40B) will sort out those issues.

Peter Munkenbeck, consultant to SCHC, stated he had worked with the group since 1981 when Plantation was developed. The 40B permit applications will be two separate submittals to ZBA.

Other voters spoke of need for this type of housing and were in support.

At 8:31 p.m. there was a call for the question. The vote to cease discussion was unanimous. The vote on the main motion followed. A two-thirds vote was required. Moderator Horowitz declared the motion carried by a show of hands in excess of two-thirds. There was a request for recount brought forth by more than seven voters. There were 173 votes hand counted: Yes 149, No 24. The **motion was declared carried** by more than the 116 votes required for two-thirds.

ARTICLE 5. Truck for Building Department

On motion of Selectman Ellen Sturgis, it was voted by more than two-thirds majority to appropriate and transfer from Free Cash the sum of \$25,000 for the purpose of purchasing a truck for the Building Department.

The Finance Committee and Capital Planning Committee were in support of the article.

ARTICLE 6. Forced Hot Water Furnace for Highway Department Garage

On motion of Selectman Stephen Dungan, it was voted unanimously to appropriate and transfer from Free Cash the sum of \$8,500 for the purpose of purchasing and installing a new furnace for the Highway Department Municipal Garage.

The Finance Committee was in support of the article.

ARTICLE 7. Compressor for Fire Station - A Past Year Expense

On motion of Selectman Kathleen Farrell, it was voted unanimously to appropriate and transfer from Free Cash the sum of \$600 for the purpose of paying an August 2005 invoice for the repair of the Fire Station compressor.

The Finance Committee was in support of the article.

ARTICLE 8. Veterans' Day Supplies - A Past Year Expense

On motion of Selectman Thomas Ruggiero, it was voted unanimously to take no action. An anonymous donor had contributed the funds to reimburse the expense.

ARTICLE 9. Rezone Portion of Land at 215 Harvard Road

Daniel Campbell, representing petitioner Felix Pittorino, moved that the Town vote to rezone a portion of land shown on the Assessors' Map R-4, Parcel 39A, totaling 65,340 s.f.+ from an R/C - Recreation-Conservation District to an RES - Residential District, the portion to be rezoned shall be approximately 65, 340 s.f., as shown on "Plot Plan, 215 Harvard Road, Stow, Massachusetts" by Level Design Group, LLC, dated 7/2009, for a single-family house to be constructed on the above referenced parcel in accordance with the Town of Stow, Massachusetts Zoning Bylaw.

Kathleen Willis, chair of the Planning Board, reported that the board was not in favor of the rezoning and felt, that if granted, precedent might be set for future petitioners in similar requests. The Finance Committee was not in favor.

Mr. Campbell explained the proposed parcel with frontage on Harvard Road is now a portion of Wedgewood Pines Country Club and would continue to be part of the country club to become a residence for the owner who wishes a home close by. The proposal would require a modification of the special permit granted by the Planning Board for the club. Joseph Pittorino spoke in favor of the proposal. Several voters were in support.

When put to a vote, the Mr. Campbell's motion to rezone **failed to carry**.

Report of the Planning Board:

This article is proposed by the property owner to rezone a portion of land (65,340 sq. ft. +/-) shown on Assessors Map R-4, Parcel 39A from Recreation-Conservation to Residential. During the Public Hearing, the petitioner advised the Planning Board of their intent to construct a caretaker's home for Wedgewood Pines Golf Club. The Planning Board is concerned that this action would set precedent for other Recreation-Conservation Zoned parcels in town to bring forth proposals to rezone to Residential. Such action may result in fragmentation of open land, disruption of wildlife habitat corridors and development of property otherwise protected by the purpose of the Recreation/Conservation District, which is intended to protect the public health and safety, to protect persons and property against hazards of flood water inundation and unsuitable and unhealthy development of unsuitable soils, wetlands, marsh land and water courses; to protect the balance of nature, including the habitat for birds, wildlife, and plants

essential to the survival of man; to conserve and increase the amenities of the Town, natural conditions and OPEN SPACES for education, recreation, agriculture, and the general welfare. At its meeting on October 13, 2009, the Planning Board voted to recommend that Town Meeting NOT ADOPT Article 9.

ARTICLE 10. Zoning Bylaw Amendment - Planned Conservation Development Open Space

On motion of Selectman Ellen Sturgis, it was voted unanimously to take NO ACTION on Article 10. Planning Board member Leonard Golder commented that the matter needs more consideration as it relates to passive recreation in the PCD district. The Finance Committee was in favor of no action.

Report of the Planning Board:

This article is meant to clarify that the allowed "recreation" use in a PCD is "passive recreation". During the Public Hearing, members of the Recreation Commission and residents voiced concern that the Planned Conservation Development Bylaw should allow some flexibility to allow "active recreation" as well as "passive recreation", noting that future Planned Conservation Developments may be in areas appropriate for Town active recreation use. Examples of cluster bylaws from area towns that allow active recreation were provided to the Planning Board. At its meeting of October 13, 2009, the Planning Board voted to move NO ACTION on Article 10 to allow the Board more time to consider concerns raised at the Public Hearing.

ARTICLE 11. Zoning Bylaw Amendment - Wireless Service Facilities

On motion of Selectman Stephen Dungan, it was voted by more than a two-thirds majority to amend the Zoning Bylaw by amending Section 5.3.7.1 by deleting subsection e. so that Section 5.3.7.1 reads in its entirety as printed in the warrant; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw.

The Finance Committee recommended approval.

5.3.7 Dimensional, Screening and Other Site Development Requirements

- 5.3.7.1 Height - Notwithstanding the provisions of Section 4.2.1 of the Bylaw with respect to height
- a. Except on land occupied by the State Firefighting Academy, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 100 feet AGL, or such lesser height as is established as the maximum height necessary, and shall not exceed a height that requires it to be illuminated at night under Federal Aviation Administration or Massachusetts Aeronautics Commission regulations, whichever is less.
 - b. On land occupied by the State Firefighting Academy, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force, the maximum height of a new WIRELESS SERVICE FACILITY shall not exceed 150 feet AGL.
 - c. The height of all wireless mounts and facilities shall be proportional to, compatible with and appropriate to the site and surroundings. Factors to be considered include but are not limited to whether there is existing vegetation sufficient to screen the visual impact of the proposed WIRELESS SERVICES

FACILITY, the height and density of existing structures and vegetation on and off-site, the presence of scenic views and vistas on and off-site, visual impact of the structure(s) with landscaping on site or on other land controlled by the applicant.

d. On land located outside the Wireless Service Facility District and within a residential district the maximum height shall not exceed 35 feet AGL, and shall not result in adverse visual or economic impact.

Report of the Planning Board:

This article is meant to remove the restriction that a waiver from the height limitation of Wireless Service Facility requires a vote of Town Meeting. Such waiver requests shall be addressed by the Zoning Board of Appeals in accordance with Chapter 40A, S. 10 (Variances). This amendment is intended to address a conflict with Massachusetts General Law, which states the Zoning Board of Appeals has authority to waive requirements of a Zoning Bylaw. This issue came into question in a recent court decision on an appeal of a Planning Board decision to deny a Wireless Service Facility. At its meeting of October 13, 2009, the Planning Board voted to recommend that Town Meeting ADOPT Article 11.

ARTICLE 12. Zoning Bylaw Amendment - Methods for Calculating Dimensional Requirements

On motion of Selectman Kathleen Farrell, it was voted unanimously to amend the Zoning Bylaw by amending Section 4.3.2.1 to read as printed in the warrant but with the deletion of the last bulleted phrase which reads, "at least 75 percent of the minimum required LOT area shall be land which does not have a natural slope of 20 percent or more"; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw.

The Finance Committee recommended approval.

4.3.2.1 LOT area - LOT area shall be determined by calculating the area within a LOT including any area within the LOT over which easements have been granted, provided that:

- no area within a STREET shall be included in determining minimum LOT area;
- water area beyond ten (10) feet from the shore lines shall not be included in determining the minimum LOT area;
- at least 50% of the minimum required LOT area shall be land which is not in a wetlands resource area (excluding the buffer zone) as defined by Article 9, Wetlands Protection, of the Town of Stow General Bylaw or Flood Plain Wetlands District.

Report of the Planning Board:

This article is meant to require that at least 75% of the minimum required LOT area shall be land, which does not have a natural slope of twenty percent (20%) or more, and to define the term wetlands consistent with Article 9, Wetlands Protection, of the Town of Stow General Bylaw.

Based on input from residents, the Planning Board agreed not to move forward with the last bullet (at least 75% of the minimum required LOT area shall be land which does not have a natural slope of twenty percent (20%) or more) to allow the Board more time to consider concerns that were raised.

At its meeting of October 13, 2009, the Planning Board voted to amend Article 12 by removing the fourth bullet and recommend that Town Meeting ADOPT Article 12 as amended.

ARTICLE 13. Zoning Bylaw Amendment - Residential District Uses

On motion of Selectman Thomas Ruggiero, it was voted by more than a two-thirds majority to amend the Zoning Bylaw by amending Sections 3.2 by adding a new Section 3.2.2.12, amending Section 3.2.2.5, and adding a new Section 3.2.2.8, to read in their entirety as stated in subsections (A), (B) and (C) of this article as printed in the warrant; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw.

The Finance Committee recommended approval.

A. Amend Section 3.2.1 by adding a new subsection 3.2.1.12 to read as follows:

3.2.1.12 For parcels of five (5) acres or greater, the provisions of Massachusetts General Law Chapter 40A, Section 3 shall apply.

B. Amend Section 3.2.2.5 to read as follows:

3.2.2.5 Veterinary hospitals and kennels, provided that no such BUILDINGS are located within one hundred (100) feet of a LOT line.

C. Amend Section 3.2 by adding a new subsection 3.2.2.8 to read as follows:
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3.2.2.8 For parcels of less than five (5) acres, stables, raising or breeding animals for sale, and boarding animals, provided that no such BUILDINGS are located within one hundred (100) feet of a LOT line. The Special Permit Granting Authority may allow BUILDINGS to shelter or maintain animals as defined in Massachusetts General Law Chapter 128, Section 1A, within the one hundred foot (100') setback, provided that the BUILDING was in existence on or before November 13, 1968, was historically used for such purpose, and the use meets the requirements of the Board of Health; and provided that the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, are in harmony with the character of the neighborhood.

Report of the Planning Board:

This article is meant to 1) acknowledge Massachusetts General Law 40A, Section 3, which states no zoning ordinance or bylaw shall unreasonably regulate agricultural used, and 2) allow stables, raising or breeding animals for sale, and boarding animals within one hundred (100) feet of a LOT line in BUILDINGS that were in existence on or before November 13, 1968 and were historically used for such purpose.

The proposed amendment:

- Recognizes the provisions of Massachusetts General Law Chapter 40A, Section 3, which prohibits the Town from unreasonably regulating or requiring a special permit for the use of land the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture on parcels greater than 5 acres.
- Maintains the existing 100' building setback on parcels of less than five (5) acres in the Residential District for buildings used for stables, raising or breeding animals for sale, and boarding animals.
- Makes provision for the Special Permit Granting Authority to waive the 100' setback requirement on parcels of less than five (5) acres in the Residential District, provided that:
 - the Building was in existence on or before November 13, 1968.
 - was historically used for such purpose,

- the use meets the requirements of the Board of Health, and
- provided that the Special Permit Granting Authority finds that such use, with any necessary mitigation measures, are in harmony with the character of the neighborhood.

At its meeting of October 13, 2009, the Planning Board recommended that Town Meeting ADOPT Article 13.

ARTICLE 14. Town Election

On motion of Selectman Laura Spear, it was voted unanimously that the meeting be adjourned until the Special Town Election on Thursday, October 29, 2009, commencing at 7:00 a.m., at the Hale Middle School Gymnasium in said Town of Stow and then and there to act on Article 14 for such election of Ballot Questions as listed in the warrant; and thereafter, at the close of the polls, to dissolve this meeting.

The meeting was adjourned at 9:44 p.m. to reconvene at 7:00 a.m. on Thursday, October 29, 2009 for the Special Town Election.

Checkers at the Door: Josephine Crowell, Alice Cushing, Mary Cutler, Robert Cutler, Janet Derby, Carol Dudley, Pamela Gjestebly, Elizabeth MacGilvra, Jayne Merrick, Alice Mortenson, Joanne C. Newman, Betty Sauta, and Dyane Smith.

Tellers for the Town Meeting: Robert Aldape, Michael Busch, Mary E. Cutler, Robert J. Cutler, Sylvia Daley, Pamela, G. Gjestebly, Donna M. Jacobs, Steve Jelinek, Jean H. Lynch, Joanne C. Newman, Jayne B. Merrick, Karen A. Meyer, John D. O'Connell, Edward R. Perry, Jr., Mark Pieper, Marcia Rising, Thomas E. Ryan, III, Debra M. Seith, Kathleen Sferra, Dwight Sipler, Dyane Smith, Jay Solomon, Melissa Solomon, Chris Spear, Janet Stiles, Elizabeth Tobey, Vickery Trinkaus-Randall, Margaret S. Tucker, Robert E. Walrath, Pamela J. Weathers.

Timekeeper: Catherine Desmond

<u>Number of Voters Checked:</u>	Monday, October 19th	784
	Tuesday, October 20th	192

Number of Registered Voters: **4592**

The amendments to the Zoning Bylaw adopted under Articles 11, 12 and 13 were approved by the Attorney General on February 4, 2010. Posted as a Town Bulletin on February 17, 2010.